



Conditions document, and the declarations submitted by both parties. This is, indeed, a case where “a more deliberate pace is required” and any motion to compel arbitration must be decided under the summary judgment standard. Guidotti, 716 F.3d at 774.

Steven Checchia v. Solo Funds, Inc., No. 23-2193, 2024 WL 3717491, at \*2 (3d Cir. Aug. 8, 2024).

Although Samsung argues that I may decide the Motion under a Rule 12(b)(6) standard, the Complaint here makes no mention of an arbitration agreement. (Doc. No. 48 at 4.) Indeed, Samsung’s Motion and Doe’s Response include the following materials not mentioned in the Complaint: both Parties’ Declarations, screenshots of sign-up pages, Samsung customer service logs, and several Terms and Conditions which purportedly compel arbitration. (Doc. Nos. 44-1, 44-2, 43-2.) Accordingly, the Complaint does not establish on its face that the Parties agreed to arbitrate Doe’s claims.

I will thus allow the Parties to take discovery on the issue of arbitrability and then present additional material. See Robert D. Mabe, Inc. v. OptumRX, 43 F.4th 307, 330 (3d Cir. 2022).

I will also deny Samsung’s Motion to Dismiss without prejudice, pending determination of the Motion to Compel Arbitration. See Edmondson v. Lilliston Ford, Inc., 593 F. App’x 108, 111 (3d Cir. 2014) (“If the parties have a valid, enforceable arbitration agreement and any of the asserted claims are within its scope, the motion to compel arbitration cannot be denied . . . . This is so even if the denial is without prejudice for the purpose of permitting the District Court to make a determination on a pending motion to dismiss.”) (citing 9 U.S.C. § 4).

\* \* \*

**AND NOW**, this 16th day of August, 2024, upon consideration of Plaintiff's Complaint (Doc. No. 1), Defendants' Motion to Compel Arbitration (Doc. No. 43), Plaintiff's Response (Doc. No. 44), Defendants' Reply (Doc. No. 48), and all related submissions, it is hereby **ORDERED** that:

1. Defendants' Motion to Dismiss (Doc. No. 17) is **DENIED without prejudice**;
2. Discovery limited to the question of arbitrability shall be completed by September 13, 2024;
3. Plaintiff shall file a memorandum in opposition to arbitration **no later than** September 27, 2024; and
4. Defendant shall file any reply **no later than** October 11, 2024.

**AND IT IS SO ORDERED.**

/s/ Paul S. Diamond

Paul S. Diamond, J.